

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

THE ESTATE OF JENNIFER TIERNEY,  
*et al.*,

Plaintiffs

v.

C-1-08-866

DAVID SHELLBERG,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 22) to which neither party has objected.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted.

The Report and Recommendation of the United States Magistrate Judge (doc. no. 22) is hereby ADOPTED AND INCORPORATED HEREIN BY REFERENCE. Defendant's Motion to Dismiss (doc. no. 10) is DENIED.

This case is RECOMMENDED to the United States Magistrate Judge for further proceedings according to law.

IT IS SO ORDERED.

s/Herman J. Weber  
Herman J. Weber, Senior Judge  
United States District Court